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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

JUN 19 1997

Federal Communications Commission  
Office of Secretary

In the Matter of

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Replacement of Part 90 by Part 88 to  
Revise the Private Land Mobile Radio  
Services and Modify the Policies  
Governing Them

and

PR Docket No. 92-235

Examination of Exclusivity and  
Frequency Assignment Policies of the  
Private Land Mobile Radio Services

**OPPOSITION AND COMMENTS RESPONSIVE TO  
PETITIONS FOR RECONSIDERATION  
AND/OR CLARIFICATION**

The Industrial Telecommunications Association, Inc. ("ITA") hereby submits its  
Opposition and Comments responsive to the various petitions for reconsideration and clarification  
filed with the Federal Communications Commission on May 19, 1997 in the above-referenced  
proceeding.

**I. BACKGROUND**

1. On February 20, 1997, the Federal Communications Commission adopted its  
Second Report and Order in the private land mobile "refarming" proceeding.<sup>1</sup> In this decision,

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<sup>1</sup> *In re* Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and  
Modify the Policies Governing Them, Second Report and Order, PR Docket No. 92-235, adopted February  
20, 1997, 62 Fed. Reg. 18834, 6 Communications Reg. (P&F) 730 (1997).

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the Commission consolidated the existing twenty private land mobile radio services into two service pools, Industrial/Business and Public Safety. The decision reflected, in large part, considerations raised by ITA in its "Proposed Technical Blueprint" for the Private Land Mobile Radio Services.<sup>2</sup>

2. ITA supported the underlying policy decisions in the Second Report and Order and was particularly supportive of the Commission's initiative in consolidating the private land mobile radio services into two pools. In an effort to highlight some of the frequency coordination and policy considerations that were especially relevant to the post-consolidation regulatory structure, ITA filed a Petition for Clarification and/or Reconsideration in the instant proceeding on May 19, 1997. Other parties also filed for reconsideration and clarification of certain aspects of the Commission's Second Report and Order.<sup>3</sup> ITA submits the instant "Opposition and Comments"

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<sup>2</sup> ITA filed its "Proposed Technical Blueprint" with the Commission on January 21, 1997. The Blueprint presented a practical regulatory structure for the private land mobile radio frequencies below 512 MHz in the post-refarming environment, based on the anticipated consolidation of the twenty private land mobile services into two broad service categories. The Blueprint also identified specific frequency limitations that would continue to have relevance in the post-consolidation environment.

<sup>3</sup> The Alarm Industry Communications Committee ("AICC") of the Central Station Alarm Association filed a Petition for Partial Reconsideration and Clarification. The American Automobile Association ("AAA") filed a Petition for Reconsideration, as did American Mobile Telecommunications Association, Inc. ("AMTA"), American Petroleum Institute ("API"), American Trucking Associations ("ATA"), Ericsson, Inc., International Taxicab and Livery Association ("ITLA"), Manufacturers Radio Frequency Advisory Committee ("MRFAC"), and Small Business in Telecommunications ("SBT"). The Hewlett-Packard Company ("HP") filed a Petition for Reconsideration and Clarification. Kenwood Communications Corporation filed a Petition for Partial Reconsideration and Request for Clarification. UTC, the Telecommunications Association ("UTC") submitted a Petition for Clarification, and the Personal Communications Industry Association ("PCIA") filed a Request for Clarification. Finally, there were two other documents of relevance filed after the reconsideration date, a Petition for Clarification or, in the Alternative, for Declaratory Ruling filed by MRFAC on May 27, 1997 and a document entitled "Revised Recommendations for Low Power Operations," filed by the Land Mobile Communications Council ("LMCC") on May 30, 1997.

in order to present its views and insights to the Commission regarding certain matters raised in the petitions for reconsideration and clarification.

3. In the instant pleading, ITA opposes certain recommendations advanced by the American Mobile Telecommunications Association, Inc. and Hewlett-Packard Company. ITA agrees with the thrust of UTC's comments on the trunking consent requirement and supports the proposal by the American Petroleum Institute for recognition of protected service areas for existing petroleum assignments.

## **II. OPPOSITION AND COMMENTS**

### **Requirements for Trunking in the "Refarmed" Spectrum**

4. In its Petition for Clarification and/or Reconsideration, ITA expressed concern regarding the restrictive nature of the consent requirement that would apply when a licensee seeks to employ centralized trunking. Based on a review of similar concerns expressed in the various petitions filed in this proceeding, there seems to be general agreement that some refinements in the trunking provisions are warranted.

5. From ITA's perspective, the prerequisites for implementation of centralized trunking should be designed to facilitate, to the extent possible, licensees' efforts to implement centralized trunking. ITA believes that centralized trunking will emerge as the technology of choice for private wireless entities who seek to maximize efficient use of their assigned spectrum.

This being the case, ITA recommends that the rules be crafted in such a way as to eliminate unnecessary obstacles to the implementation of trunking.

6. From ITA's perspective, the initiative to modify the concurrence requirement must be based on technical considerations. To illustrate, UTC's Petition for Clarification makes the point that the area specified for affected user consent, i.e., within 70 miles of a proposed site, is incongruous with a licensee's likely service area. UTC observes that the rule governing the consent requirement implies that trunked systems would have a service area equal to, or in excess of, a 70-mile radius. In fact, as UTC notes, the actual service area will be somewhere in the range of 35 to 50 miles at best.

7. ITA agrees with UTC's analysis. And, in ITA's view, the appropriate resolution is to conform the size of the relevant area defined for user consent to the realistic service radius. In its Petition for Clarification and/or Reconsideration, ITA recommended that the consent requirement encompass only licensees whose service contours intersect the actual service contour of the trunking candidate, i.e., the 37 dBu contour for trunking candidates in the 150-174 MHz band and the 39 dBu contour for trunking candidates in the 421-470 MHz band.<sup>4</sup> In making this recommendation, ITA's intent was to conform the consent requirement to the actual service area

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<sup>4</sup> As ITA noted in its Petition for Clarification and/or Reconsideration, centralized trunking is a proven technology that is technically efficient. Centralized trunking is generally more satisfactory and more efficient than decentralized trunking. It is ITA's belief that the Commission's rules should encourage the implementation of centralized trunking. ITA would not extend the 37 dBu and 39 dBu contour consent procedure to systems proposing decentralized trunking but, rather, would apply it only to licensees seeking to implement centralized trunking.

of operating systems.

8. Some of the petitioners addressing the trunking issue offer other solutions, unrelated to the technical environment, for resolving the consent issue. Ericsson, for example, would liberalize the consent requirement by stipulating that a licensee need only obtain consent from a simple majority of the affected users. ITA does not favor this approach. Ericsson has correctly focused on a significant technical issue. Instead of proposing a technical solution, however, Ericsson recommends a remedy that is in the nature of a policy or political solution.

9. ITA remains convinced that a solution based on technical parameters is the only appropriate remedy. Consistent with UTC's observations, ITA continues to believe that the trunking rule should define "affected users" as those licensees whose service contours intersect the actual service contour of the trunking candidate, either the 37 dBu or 39 dBu contour, as appropriate, depending on the frequency band involved.

#### **AMTA's Proposal for Assignment of 20 Channels for Trunked Operations**

10. AMTA urges the Commission to permit the prospective operators of trunked systems to "target" up to 20 channels for operation of their trunked systems. ITA opposes this suggestion. ITA does not believe that 20 channels represents either a realistic or prudent "target." ITA believes that the proposal, while well-intentioned, ignores the severe congestion that already plagues the private land mobile bands below 800 MHz. Since its constituents operate chiefly in the 800 MHz and 900 MHz bands, AMTA has not had occasion to contend, on a day-to-day

basis, with the congestion in the "refarmed" spectrum. Clearly, however, the congestion is so severe as to make AMTA's proposal unworkable and contrary to the public interest. ITA urges the Commission not to adopt AMTA's proposal. Instead, ITA suggests that the licensees of prospective trunked systems be able to "target" a maximum of five channels for their use at a time. Once a complement of five channels has been placed in operation and loaded, the licensee could then apply for an additional five channels with proper documentation of channel loading.

#### **Accommodating the Requirements of Petroleum Radio Service Licensees**

11. In its Petition for Reconsideration, API states that the special coordination procedures for exclusive petroleum frequencies are grossly insufficient to satisfy the critical functions conducted by licensees in the petroleum and natural gas industries. In API's view, the fact that there are few frequencies available to the Petroleum Radio Service on an exclusive basis undercuts the Commission's effort to protect petroleum eligibles. To address this situation, API urges the Commission to implement protected service contours for all existing systems licensed to eligibles in the Petroleum Radio Service. Specifically, API suggests that concurrence by the PFCC should be a prerequisite for grant of any application proposing to share channels currently allocated to the Petroleum Radio Service in which the proposed system would: (a) for an existing petroleum system in the 450-470 MHz band, impinge on the 39 dBu contour of the existing system; (b) for an existing petroleum system in the 150-174 MHz band, impinge on the 37 dBu contour of the existing system; and (c) for an existing petroleum system on channels below 50 MHz, impinge on the 30 dBu contour of the existing system.

12. It is correct, as API has observed, that the current rules allocate few frequencies to the Petroleum Radio Service on an exclusive basis. Therefore, ITA agrees, as a practical matter, that the special frequency coordination provisions adopted in the consolidation decision afford only limited relief to petroleum licensees. Clearly, these special coordination provision confer a more meaningful benefit on licensees in the Railroad Radio Service and the Power Radio Service. ITA believes that API's proposed approach, using the concept of protected service contours to guard against harmful interference from non-petroleum licensees, represents a viable compromise.<sup>5</sup>

13. A key consideration, from ITA's perspective, is that the petroleum frequencies at issue would be available to non-petroleum entities in areas where there are no existing assignments in the Petroleum Radio Service. Further, the approach recommended by API is consistent with fundamental public policy considerations identified by ITA in its Blueprint. It appears that the remedy suggested by API will serve the dual purpose of: (1) protecting existing petroleum assignments and (2) reinforcing the underlying objective of radio service consolidation, i.e., promoting more efficient use of the available Part 90 frequencies. Accordingly, ITA supports the modification proposed by API.

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<sup>5</sup> In its Proposed Technical Blueprint, ITA had identified certain frequencies licensed for taxicab systems that, based on the demonstrated intensity of use, were not likely to be available for non-taxicab operations within major metropolitan areas. For this reason, ITA had recommended that, in the top 50 urban areas, the frequencies be limited to taxicab operations. Some of the same factors that warrant special protection for petroleum systems are also relevant to taxicab systems. Accordingly, it may also be appropriate to require concurrence by the International Taxicab and Livery Association for any applications that would impinge upon taxicab systems within the top 50 urban areas.

**Protection for Low- Power Medical Devices Operated on a Secondary Basis**

14. Hewlett-Packard's Petition for Reconsideration and Clarification raises certain issues relating to the introduction of full-power operations on channels that have heretofore been used for low-power systems. Of particular concern to Hewlett-Packard is the protection of low-power medical devices operated by hospitals and other medical facilities. Hewlett-Packard makes reference to the freeze imposed by the Commission in August 1995 on the use of the 450-470 MHz offset channels for operation of full-power systems. Using the freeze as a starting point, HP argues that a further and perhaps more permanent delay in the introduction of full-power operations is warranted. This is so, HP asserts, because the Commission saw fit to grant a freeze in 1995 and there has been no significant change in the situation since that time.

15. HP takes the position that the existing medical telemetry devices cannot tolerate any interference. HP argues that a protracted migration of low-power systems to "low-power zones" is the only reasonable solution. To reach this result, HP urges the Commission to mandate industry discussions that would culminate in a negotiated rule making proceeding.

16. As an initial matter, ITA believes that HP's attempt to use the widespread popularity of low-power medical devices as leverage for its arguments is misguided. HP ignores a fundamental point with respect to operations on the 12.5 kHz offset channels: by rule, such systems are secondary and are not entitled to interference-free operation. HP could have, and should have, anticipated the problem years ago. HP could have pursued other options for satisfying the need for low-power medical frequencies. The opportunity existed for it to pursue a



specific allocation for low-power medical operation, akin to the "low-power zones" that it now seeks. Instead of pursuing such an allocation, before the large-scale proliferation of low-power devices, HP took the more expedient approach of attempting to carve out a niche on frequencies that were fundamentally incompatible, by virtue of their secondary status, with the needs of hospitals and medical patients. While ITA does not want to belabor the point, HP must assume responsibility for what was essentially a short-sighted business decision. For reasons that only HP can clearly explain, it attempted, years ago, to make a home for critical low-power devices directly in the middle of the most congested private land mobile frequency band in existence. That fact, in and of itself, should have suggested to HP that its position was precarious at best.

17. Under the current situation, HP must clearly find an alternate location for its products. However, ITA does not believe that HP's concept of a "low-power zone", with "stringent power restrictions" and a sizeable "guardband" is practical. Nor is a negotiated rule making the appropriate answer. Like other users of the offset frequencies, HP and its customers do have options available under the consolidation decision. The most suitable option is simply to relocate to other frequencies if they want to want to declare primary status.<sup>6</sup> This approach would ensure protection from full-power systems.

18. In view of the apparent gravity of the situation, HP would also seem to have

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<sup>6</sup> The Land Mobile Communications Council ("LMCC") has invested considerable time and effort in preparing a comprehensive plan for the migration of low-power users to protected channels. On June 4, 1997, the Land Mobile Communications Council ("LMCC") submitted its findings to the FCC in the form of an industry Consensus Plan. This Consensus Plan provides a useful basis on which HP's customers can ensure protection from full-power operations.

considerable leverage at its disposal to support a discrete allocation of frequencies in a band, perhaps higher in the spectrum, that would offer a more compatible home for low-power medical devices. As HP has long known, the congestion in the 450-470 MHz band renders this band inherently incompatible with low-power devices that demand an interference-free environment. ITA therefore opposes HP's proposals on this matter and urges the Commission to move forward with the transition plan outlined in LMCC's Consensus Plan.

WHEREFORE, the premises considered, the Industrial Telecommunications Association, Inc. respectfully submits the foregoing Opposition and Comments and urges the Federal Communications Commission to act in a manner consistent with the views expressed herein.

Respectfully submitted,

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